

Appendix A

Frank D. Holmes / Vickay Barrows - Program Administrators

1060 Hwy 190 East, Huntsville, TX 77340

✓ Access to Courts

2405 Ave. I, Suite J
Huntsville, TX 77340

Wayne Scott Unit

6999 Retrieve Rd

Angleton, TX 77515

(979) 849-9306

Inmate Trust Fund

Warden D. Muniz

Texas Department of Criminal Justice

Law Librarian R. Grays

P.O. Box 60

Huntsville, TX 77342-0060

Michael Dean Perry TDCJ No. 1838827



Texas Department of Criminal Justice

OFFICE USE ONLY

Exhibit #1

STEP 1 OFFENDER GRIEVANCE FORM

Offender Name: Michael Perry TDCJ # 1838827Unit: Wayne Scott Housing Assignment: B3-9BUnit where incident occurred: Wayne Scott(28 U.S.C. § 2254) Time Tolling (AEOPA)

Grievance #: _____

Date Received: _____

Date Due: _____

Grievance Code: _____

Investigator ID #: _____

Extension Date: _____

Date Retd to Offender: _____

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Law Librarian R. Grays, Clo Hall, Capt. Price, Cor. Williams When? 6/8/2016

What was their response? You should have went to Commissary again on 6/8/2016 We will not mail your legal mail.

What action was taken? You are obligated to go to Commissary. Denied Access to Courts Retaliation 1st time

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

Once I arrived in the Unit Law Library for my scheduled session on 6/9/2016 I was again subjected to harassment and intimidation by both Clo Cynthia Hall and Law Librarian Ruthie Grays involving the filing of my writ of Habeas Corpus Art. 11.07 and § 2254 and the required filing fee of \$5.00. First of all, Clo Hall calls me into the office where she began to berate and admonish me about an I-60 I wrote on 6/3/2016 that was written about the filing fee and informal Pauper's Forms before I had money in my inmate Trust Fund Account. Clo Hall never did process my IEP Form or even provide me the IEP Forms. I in fact brought my own. Nevertheless, R. Grays and Clo Hall tell me that I should have went to Commissary on 6/8/2016 because that was B. Whigs turn to go again. Well, I did try to make Commissary on 6/8/2016 and Williams ran me off. Telling me again that she was only doing stock outs and that she scanned my ID card on 6/4/2016, and that counted as a spend. After again speaking with R. Grays she told me that she spoke with the Major and he said that I should have a hard store on 6/8/2016 and purchased stamps in order to file my own writs. To no avail. As according to Law Librarian R. Grays, I never did get to speak to the Major or the Warden Morris because they refused to speak to me. I did speak with Capt. Price and he went into his office and called R. Grays and she said the something I said. I assume, because that's what the Captain told me. The Captain also said he called the Commissary Manager and she told him that since she scanned my card on 6/7/2016 that I couldn't go on 6/8/2016 and that's why she wouldn't let me make a new spend. Which doesn't make any sense. Does this mean I don't get to make a second spend like everybody else at Wayne Scott Unit just because we scanned my card on 6/4/2016? We are scheduled to make a second spend on 6/12/2016 unless, of course,

Please Return
up

you people have changed that too, like you do everything else at this Unit. You people have still not provided me with a commissary print out/receipt that proves I made a spend. You are mandated by MCS Policy, to permit me to make commissary at least every two (2) weeks. Not every 30 days. I haven't been to commissary and made a spend since 8/5/11/2016. That's over a month now. Who's going to provide me with hygiene, postage stamps, writing supplies? I don't have any soap, toothpaste, deodorant. Who's going to provide me with those basic necessities? Don't forget the postage stamps, writing paper, envelopes etc etc. A bag of coffee and some mint sticks would be nice too. I didn't get a login for the law library on 6/11/2016. C/O Hadd refused to sign me in or give me I-60 request forms. I will mail this to the courts.

Action Requested to resolve your Complaint

Let me make commissary right now! Cease and Discontinue Retaliation for filing redress of grievances and challenging the conditions of my confinement. Access to Court BP-03.81

Offender Signature: Michael PerryDate: 6/12/2016Grievance Response: Resubmitted on Court: 6/14/2016 - to Huntsville, TX Truck Mail

btw: I was refused commissary again on 6/13/2016!
And Again No law library login: (6/11/2016)

Signature Authority: _____

Date: _____

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. *
- ☐ 3. Originals not submitted. *
- ☐ 4. Inappropriate/Excessive attachments. *
- ☐ 5. No documented attempt at informal resolution. *
- ☐ 6. No requested relief is stated. *
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. *
- ☐ 8. The issue presented is not grievable.
- ☒ 9. Redundant, Refer to grievance # 2016157838
- ☐ 10. Illegible/Incomprehensible. *
- ☐ 11. Inappropriate. *

UGI Printed Name/Signature: D. PUSTKA

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

OFFICE USE ONLY

Initial Submission

UGI Initials: OPGrievance #: 2016157838Screening Criteria Used: #9Date Recd from Offender: JUN 13 2016Date Returned to Offender: JUN 13 20162nd Submission

UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

3rd Submission

UGI Initials: _____

Grievance #: _____

Screening Criteria Used: _____

Date Recd from Offender: _____

Date Returned to Offender: _____

Appendix C

Executive Director
 Brad Livingston
 Assistant Region Director
 Matt Gross

Access to Courts BP-03.81
 Writ of Habeas Corpus No. 42,139-A-W-1
 Mandamus WR-62,970-06

Complaint Affidavit

I, Michael Dean Perry TDCS No. 1838527 am over the age of 18 years, of sound mind, capable of making this Affidavit, and I am personally acquainted with the facts stated herein;

Mr. Livingston Sir, obviously writing complaint letters and/or Affidavits to the Office of Professional Standards and Access to Courts - Huntsville, Frank D. Hoke and Vickie Barrow, 1060 Hwy 190 East Huntsville, Tx 77340 Will not correct the problem! See the Complaint Affidavits I filed on October 20th, 2014 to Frank Hoke and subsequent Affidavit filed on May 26, 2015 to Vickie Barrow! It's true that I've been transferred twice now and find myself stranded at the Wayne Scott Unit, 6999 Retriever Rd, Angleton, Tx 77515 However, the denial of Access to Courts continues unimpeded! Yes, I filed the required Step 1 grievance and as a result I'm being harassed and retaliated against! CLO Hall berates me every time I come to the law library! That's when I can get a lay-in! CLO Woodard is also harassing me! I've been denied my right to go to Commissary since May 11, 2016! For an entire week I tried to Mail my 28 U.S.C. §2254 Federal Writ of Habeas Corpus to the Federal Court, but Law Librarian R. Gross and CLO C. Hall impeded that process! As of June 3, 2016 I was in fact indigent, I had the right to use the prison indigent mailing procedures!

But I was denied that privilege! After a couple of days of stress and arguing with R. Grays and Clo Hall, they finally produced a box to mail my Appeal to the Court in! At this point it's not clear if they actually mailed my Appellate's Brief in or not. Clo Hall claims it costs \$13.95 and that at some point they would deduct the costs from my Trust Fund account. They also refused to include the filing fee, telling me that I must first submit an I-60. Needless to say, the release of the \$5.00 filing fee for the 24 U.S.C. § 2254 did not get processed or mailed until June 9, 2016. Provided of course, it actually got mailed by DOJ employees! I have no way of knowing! R. Grays told me that she mailed it to the Inmate Trust Fund and that they would mail the \$5.00 filing fee to the Courts. I tried to mail a Complaint Affidavit to the United States District Court last week in my indigent envelope since the Commissary Manager Mrs. Williams refuses to let me go to Commissary like everybody else in order to purchase postage stamps and stationery so I can mail my own writs to the Courts. Let me explain briefly! I tried to go to Commissary on June 4, 2016, but my money had not been placed into my Trust Fund Account yet. But that very same afternoon I was told by R. Grays and Clo C. Hall that I was not indigent! When I tried to go to Stuck out Commissary on June 7, 2016. Commissary Manager Williams said no because she scanned my ID card on Monday, June 7, 2016 and Friday June 4, 2016. On June 8th, 2016 I was told by R. Grays that it was a 2nd spend and that I should be able to go to Commissary, but again Williams refused to let me go to Commissary. I never received a print out at any time, so how is that a spend? I haven't been to Commissary since May, 11, 2016 and I'm not on Restriction! I can't write to my family or to

The Courts. I will be including a copy of this Affidavit and other documents demonstrating to the Courts of the impediment to the timely filing of my Appeal and my Access to Courts Rights. (AEDPA) of 1996 see 28 U.S.C. § 2244(d)

I have a Fundamental right to Access to Courts see BP-03.81 of FDUS. Texas Government Code § 492.013(a), 495.025, 499.102(a)(12) see also Lewis v. Casey, 518 U.S. 343, 116 S.Ct. 2174 (1996); Ex parte Hull, 312 U.S. 546 (1941); Johnson v. Avery, 383 U.S. 443 (1969), and Bounds v. Smith, 430 U.S. 817 (1977). This right allow me to file a 42 U.S.C. § 1983 or Bivens claim, habeas petitions, grievances challenging the conditions of confinement for redress, and/or to work on my criminal case. The right is so fundamental and unambiguous that it requires a prison to fund a way for you to have "meaningful" access to the court. (Emphasis supplied.) Prisons can do this in different ways. They can give you access to a decent law library OR they can hire people to help us without cases!

The Wayne Scott Unit does not have a decent law library whereas, there is in fact a plastic partition separating prisoners from the law books on the holdings list. We first have to write out the case's we want on a tiny square piece of paper and then give that to a (SSI) worker (inmate-building tender disguised as a trustee) with a bad attitude and rely on him to get our books. This process is very time consuming and arduous. The same could be said for their process involving shepherds and loans. I've been waiting a for about a week now on just two cases. I was also treated quite rudely and disrespected in that process as well. When I requested a truck mail envelope in which to mail this Affidavit to Huntsville, Tx, Clo C. Hall actually asked to see what I was mailing and to whom I was mailing it too. Clo C. Hall gave me an old truck mail envelope...

That was already sealed, she told me to take a pencil and try to work it back open! Indeed! Clo C. Hall also refused to give me any I-60's telling they were short of supplies! Indeed! What's next? Notwithstanding the Aforesaid, but inmates are required to ascend and descend two flights of stairs several times a day at the Law Library, since it's located on the Second Floor! We are also required to take a restroom break in the middle of our session, of which the restroom is located on the ground floor! I live, rather, am housed on the 3rd floor on B Wing, even though I am an American with Disabilities! see ADA; Americans with Disabilities Act of (1990) § 201, 42 U.S.C. § 12131; § 101 (9) USCA § 12111 (9) and the Rehabilitation Act of (1973) § 504, 29 USCA § 794 Whereas, you are required by Federal Law to make reasonable accommodations for my disabilities, and you have not! On the contrary, your erroneous and arbitrary acts have impeded my Access to Courts! And violate my 8th Amendment rights against cruel and unusual punishment, protected by the due process clause of the Fourteenth Amendment. Just like people on the outside, prisoners have a fundamental Constitutional right to use the court system. This right is based on the First, Fifth and Fourteenth Amendments to the Constitution. Under the First Amendment, we have the right to petition the Government for redress of grievances, and under the Fifth and Fourteenth Amendments, we have the right to "due process of law"! Put together, these provisions mean that you must have the opportunity to go to court if you think your rights have been violated. The right is referred to as the "Right of Access to the Courts"! *Supra*! (See TDCJ Policy BP-03.81 Access to Courts)

On or about June 6, 2016 the Texas Court of Criminal Appeals of Texas mailed me a Court Order in response to my previously filed Writ of Mandamus Cause No. WR-62,970-06 As according to rule 79.1 of

The Rules of Appellate Procedures, A motion for Rehearing must be filed within 15 days from the date of the judgment or order' (Emphasis Supplied) Today is June 14th, 2016 and I have not been able to file any type of motions in court in a timely manner and/or Not at All! I have been arbitrarily and erroneously denied the right to go to Commissary in order to, inter alia, buy postage stamps and writing supplies for at or about 35 days now and counting! I can't use the prison indigent mailing system because I'm not indigent, and Prison Officials know that! They are in fact deliberately impeding my access to courts in retaliation for filing a grievance, challenging the conditions of my confinement and for denial of access to courts! Furthermore, I can't even contact the court to determine if Prison Officials actually mailed my Writ of Habeas Corpus and Filing fee to the District Court in Galveston, Texas!

See Step 1 grievance #2016157838 filed on 6/12/2016, see also Step 1 grievance #2016157838 said grievances are referred to as Redundant! Therefore, Prison Officials are well aware of their continual violations of well established rules and procedures and statutes! See also Step 1 grievance #2016-159305 filed on 6/13/2016, and refused as submission in excess of 1 every 7 days! Indeed! As an aside, It's now been 36 days since I've been to Commissary with no relief in sight! I will now be forced to file a Motion for Extension of Time Rule 10.5(b) Rules of Appellate Procedures, Not only in the U.S. District Court, but also the Texas Court of Criminal Appeals! These arbitrary acts will cost the courts and me unnecessary expense and undue delay! Effectively impeding my right of Appeal! Note: I will be forwarding at least one of the Step 1 grievances as an exhibit to the courts in order to preserve error Step 1 #2016158638 (but see Step 1 #2016156248 resubmitted on 6/16/2016)

The next thought I want to put into your mind and imagination is what I liken to juxtaposition! My attempts to gain access to courts and the myth of Sisyphus, who was decreed by the Gods to push a giant rock up a steep hill, but could never quite reach the top before the rock broke loose from his grasp and rolled back to the bottom, where he had to start all over again and again and again and again and again and again, for ever. Just like the Court of Criminal Appeals telling me to re-file my writ of Habeas Corpus Ant. 11.07 back in the same court where the District Attorney, discarded 800 plus pages of two writs of Habeas Corpus, two 50 page Memorandum of Law, and 70 exhibits! In fact, I've now re-filed the same writ applications (3) Three times, counting the original filing (4 1/2 years) Just like trying to go to Commissary (3) Three times in order to purchase postage stamps and writing supplies! Juxtaposition, indeed! (36) days now and no Commissary yet. I don't even know if the law librarian and her co-worker actually mailed my 28 U.S.C. § 2254 and \$5.00 filing fee to the courts last week! They refuse to provide proof that they did! Maybe Huntsville will do something to correct the problems of both Access to courts and Access to Commissary, whether they will or not is anybody's guess! Maybe the courts will require them to, who knows? Further Affiant sageth not.

Wayne Scott Unit
6999 Retrieve Rd
Angleton, TX 77515
(979) 849-9306

Respectfully Submitted,

Affiant x Michael Dean Perry 1838822
D.O.B. 10/22/1959

Executed on this the 16th day of June 2016 (Warden D. Muniz (979) 849-9306)

(Tees Rules PD 22.6)

6.

Unsworn Declaration

I Michael Dem Perry TDCJ No. 1838827 being presently incarcerated in the Texas Department of Criminal Justice at the Wayne Scott Unit, 6999 Retriever Rd, Angleton, TX 77515 Declare under penalty of perjury that the above and foregoing is true and correct.

Executed on this the 16th day of June, 2016.

By Affiant Michael Dem Perry TDCJ No. 1838827

Certificate of Service

I, Michael Dem Perry TDCJ No. 1838827 do hereby certify that a true and correct copy of the above and foregoing Affidavit, unsworn declaration and Certificate of Service have been served by placing same in the U.S. Mail, First Class postage prepaid on this the 16th day of June, 2016.

By Affiant Michael Dem Perry TDCJ No. 1838827

Return Service Requested: Michael Dem Perry TDCJ No. 1838827
Wayne Scott Unit
6999 Retriever Rd
Angleton, TX 77515